United Nations S/2012/104

Security Council

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United Kingdom of Great Britain and Northern Ireland: draft resolution

The Security Council,

Recalling all previous resolutions on the situation in Somalia, in particular resolution 2010 (2011), as well as other relevant Presidential Statements and resolutions on protection of civilians in armed conflict, women and peace and security, and children and armed conflict,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, and *reiterating* its commitment to a comprehensive and lasting settlement of the situation in Somalia,

Reiterating its full support for the Djibouti Peace Process and the Transitional Federal Charter which provide the framework for reaching a lasting political solution in Somalia, *reiterating* its support for the Kampala Accord and the Roadmap to End the Transition (the "Roadmap"), and *stressing* the need for reconciliation, dialogue and broad-based, inclusive and representative Somali institutions,

Stressing the primary responsibility of the Transitional Federal Institutions to implement the Roadmap, *welcoming* the progress to date, including the commitment shown by the Garowe Principles, but *expressing concern* that many of the deadlines for the completion of the tasks in the Roadmap have been missed which may delay the full implementation of the Roadmap,

Urging the Transitional Federal Institutions and all Roadmap signatories to redouble their efforts to fully implement the Roadmap with the support of United Nations Political Office for Somalia (UNPOS) and the international community, and *noting* that future support to the Transitional Federal Institutions for the remainder of the transitional period, would be contingent upon progress in completing the tasks in the Roadmap,

Stressing the need for the Transitional Federal Government, with the support of the African Union Mission to Somalia (AMISOM), and as a matter of urgency, to build an enhanced level of security in areas secured by AMISOM and the Somali security forces, and to build sustainable administrative structures in these areas,

Noting that the transitional period in Somalia will end on 20 August 2012, *emphasising* that any further extension of the transitional period would be untenable and *calling upon* Somali parties to agree inclusive and representative post-transitional arrangements, in line with the Djibouti Agreement,

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Stressing the need for further efforts to fight corruption, promote transparency and increase mutual accountability in Somalia, and in this regard *welcoming* initiatives aimed at the more transparent and accountable management of Somali assets and internal and external financial resources to maximise public revenues for the benefit of the Somali people,

Stressing the need for a comprehensive strategy in Somalia to address the political, economic, humanitarian and security problems in Somalia and the problem of piracy, including hostage taking, off the coast of Somalia through the collaborative efforts of all stakeholders, *reiterating* their full support to the Secretary-General and his Special Representative, Augustine P. Mahiga in this regard, and for their work with the African Union and international and regional partners,

Recognising that peace and stability in Somalia depend on reconciliation and effective governance across the whole of Somalia and *urging* all Somali parties to renounce violence and to work together to build peace and stability,

Welcoming the London Conference on Somalia, to be held on 23 February 2012, where coordinated international action to address the political, security, justice, stability, and piracy problems in Somalia, as well as humanitarian issues, will be further enhanced, and *welcoming* the upcoming Istanbul Conference on Somalia,

Expressing grave concern at the dire humanitarian situation in Somalia, and its impact on the people of Somalia, in particular on women and children, and *calling on* all parties to ensure full and unhindered access for the timely delivery of humanitarian aid to persons in need of assistance across Somalia, consistent with humanitarian, human rights and refugee law,

Reiterating its condemnation of all attacks on the Transitional Federal Government, the African Union Mission in Somalia (AMISOM), United Nations personnel and facilities, and the civilian population by armed opposition groups, and foreign fighters, particularly Al Shabaab, and *stressing* that Somali armed opposition groups and foreign fighters, particularly Al Shabaab, constitute a terrorist threat to Somalia, and the international community,

Noting the announcement that Al Shabaab has joined Al Qaeda, stressing that there should be no place for terrorism or violent extremism in Somalia and *reiterating* its call upon all opposition groups to lay down their arms,

Commending the contribution of AMISOM to lasting peace and stability in Somalia and efforts to bring stability and security to Mogadishu, *expressing* its appreciation for the continued commitment of troops and equipment to AMISOM by the Governments of Burundi and Uganda, and for the newly deployed troops from the Government of Djibouti and *recognising* the significant sacrifices made by AMISOM forces,

Welcoming the willingness of the Government of Kenya for Kenyan forces to be incorporated into AMISOM and so to contribute to the implementation of AMISOM's mandate as set out in paragraph 9 of resolution 1772 (2007) and this resolution, *stressing* the importance of the prompt deployment of new AMISOM forces to reach its mandated level, and *calling* on other African Union Member States to consider contributing troops and provide support to AMISOM,

Welcoming the work of the joint African Union and United Nations Technical Assessment Mission on AMISOM, *noting* the agreement by the African Union Peace and Security Council on a AMISOM Strategic Concept of 5 January 2012, and *welcoming* the Secretary-General's Special Report on Somalia (S/2012/74),

Recalling its authorisation in paragraph 1 of resolution 2010 (2011) that the Member States of the African Union maintain the deployment of AMISOM until 31 October 2012, and that AMISOM is authorised to take all necessary measures to carry out its existing mandate as set out in paragraph 9 of resolution 1772 (2007),

Recalling paragraph 5 of resolution 2010 (2011) and noting its intention to review the force level of AMISOM when the mission reaches its mandated level of 12,000,

Expressing concern that charcoal exports from Somalia are a significant revenue source for Al Shabaab and also exacerbate the humanitarian crisis,

Recalling its resolutions 1950 (2010), 1976 (2011), and 2020 (2011) *expressing* its grave concern at the threat posed by piracy and armed robbery off the coast of Somalia, *recognising* that the ongoing instability in Somalia contributes to the problem of piracy and armed robbery at sea off the coast of Somalia, *stressing* the need for a comprehensive response to tackle piracy, and hostage taking, and its underlying causes by the international community and the Transitional Federal Institutions and *welcoming* the efforts of the Contact Group for Piracy off the Coast of Somalia, States and international and regional organisations,

Stressing the need to investigate, prosecute, and to imprison when duly convicted pirates and those who illicitly finance, plan, organise, or unlawfully profit from pirate attacks,

Welcoming the relocation of the Secretary-General's Special Representative to Somalia and an UNPOS office to Mogadishu and *encouraging* the United Nations to take further steps to achieve a more permanent and full relocation to Somalia, in particular Mogadishu, consistent with the security conditions, as outlined in the Secretary-General's reports (S/2010/447) and (S/2009/210),

Determining that the situation in Somalia continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that in addition to the tasks set out in paragraph 9 of resolution 1772 (2007) AMISOM shall include establishing a presence in the four sectors set out in the AMISOM strategic Concept of 5 January, and AMISOM shall be authorised to take all necessary measures as appropriate in those sectors in coordination with the Somali security forces to reduce the threat posed by Al Shabaab and other armed opposition groups in order to establish conditions for effective and legitimate governance across Somalia, *further decides* that AMISOM shall act in compliance with applicable international humanitarian and human rights law, in performance of this mandate and in full respect of the sovereignty, territorial integrity, political independence and unity of Somalia;

2. *Requests* the African Union to increase AMISOM's force strength from 12,000 to a maximum of 17,731 uniformed personnel, comprised of troops and personnel of formed police units;

3. *Reiterates* that regional organisations have the responsibility to secure human, financial, logistical and other resources for the work of their organisations, including through contributions by their members and support from partners, *welcomes* the valuable financial support provided by the African Union's partners to AMISOM, including through bilateral support programmes and the African Peace Facility of the European Union, and calls upon all partners, in particular new donors, to support AMISOM through the provision of equipment, technical assistance, funding for troop stipends, and uncaveated funding to AMISOM to the United Nations Trust Fund for AMISOM;

4. *Decides* to expand the logistical support package for AMISOM, referred to in paragraphs 10 and 11 of resolution 2010 (2011), and as described in the Secretary-General's letters (S/2009/60 and S/2011/591) to the President of the Security Council, from a maximum of 12,000 uniformed personnel to a maximum of 17,731 uniformed personnel, until 31 October 2012, ensuring the accountability and transparency of expenditure of United Nations funds as set out in paragraph 4 of resolution 1910 (2010);

5. *Recalls* its request to the Secretary-General in paragraphs 10 and 12 of resolution 1863 (2009) related to transparency and proper accountability for resources provided to AMISOM, and *requests* that equal attention to resource transparency, accountability, and internal controls be applied to the additional UN support measures authorised to be provided to AMISOM and its troop contributing countries in this resolution and the annex of this resolution;

6. *Decides* on an exceptional basis and owing to the unique character of the mission, to expand the logistical support package for AMISOM to include the reimbursement of contingent owned equipment including force enablers and multipliers as described in paragraphs 28 through 36 and 43 of the Secretary-General's Special Report on Somalia (S/2012/74) and as set out in the annex to this resolution;

7. *Stresses* the importance of stabilising areas secured by AMISOM and the Somali security forces, *calls upon* all Somali stakeholders, with the support of the UN, the African Union and the international community, to promote reconciliation, law and order, the delivery of basic services and strengthen governance at district, regional, state and federal levels, including by supporting the delivery of Stabilisation Plans developed by Intergovernmental Authority on Development (IGAD) and the Transitional Federal Government;

8. *Requests* the Secretary-General to continue to provide technical and expert advice to the African Union in the planning, deployment and management of AMISOM, through the United Nations Office to the African Union, including on the implementation of the AMISOM Strategic Concept and the AMISOM Concept of Operations;

9. *Reiterates* its request to the United Nations to work with the African Union to develop a guard force of an appropriate size, within AMISOM's mandated troop levels, to provide security, escort and protection services to personnel from the international community, including the United Nations, as appropriate and without further delay;

10. *Welcomes* the intention of new troop contributing countries to contribute to AMISOM and *stresses* that all new troops shall be integrated fully into the

AMISOM command and control structures, and shall operate in accordance with AMISOM's mandate as set out in paragraph 9 of resolution 1772 (2007) and this resolution;

11. *Stresses* that coordinated action by all contributors is critical for the peace, security and stability of Somalia and the region, and calls on other African Union Member States to consider contributing troops to AMISOM in order to help create the conditions when Somalia can be responsible for its own security;

12. *Recognizes* the importance of strengthening the capacity of regional and sub-regional organizations in conflict prevention, crisis management and post-conflict stabilization, and *calls upon* the African Union and donors to continue to work together to further enhance the effectiveness of African peacekeeping;

13. *Recalls* paragraph 13 of resolution 2010 (2011);

14. *Emphasises* that the development of the Somali security forces is vital to ensure Somalia's long term security and stability, *requests* AMISOM to continue to expand its efforts to help develop the capacity and effectiveness of the Somali security forces, *urges* Member States, regional, and international organisations to work with in coordination with AMISOM to provide coordinated assistance, training and support and *welcomes* in this regard the training of Somalia security forces through the bilateral support programmes of Member States and the European Union Training Mission for Somalia (EUTM);

15. *Notes* the important role an effective police presence can play in the stabilisation of Mogadishu, *stresses* the need to continue to develop an effective Somali police force and *welcomes* the desire of the African Union to develop an operational police component within AMISOM;

16. *Demands* that all parties and armed groups take appropriate steps to ensure the safety and security of humanitarian personnel and supplies, and further *demands* that all parties ensure full and unhindered access for the timely delivery of humanitarian aid to persons in need of assistance across Somalia, consistent with humanitarian, human rights and refugee law;

17. *Recalling* its resolutions 1674 (2006), 1738 (2006) and 1894 (2009) on the protection of civilians in armed conflict, *welcomes* the progress made by AMISOM in reducing civilian casualties during its operations, *urges* AMISOM to continue to undertake enhanced efforts in this regard, *commends* AMISOM's commitment to establish a Civilian Casualty Tracking, Analysis and Response Cell (CCTARC), as referenced in the Secretary-General's Report on Somalia (S/2011/759) of 9 December 2011, and *calls on* international donors and partners to further support the establishment of a CCTARC;

18. *Welcomes* the endorsement by AMISOM of the 2011 indirect fire policy and *encourages* AMISOM to adapt and implement this policy for all new troops and assets;

19. *Recalls* the Council's decision in resolution 1844 (2008) and *welcomes* the determination by the international community, including the African Union, to take measures against both internal and external actors engaged in actions aimed at undermining the peace and reconciliation process in Somalia, including the Roadmap, as well as the efforts of AMISOM and the Somali security forces;

20. *Underlines* its intention to keep the situation on the ground under review and to take into account in its future decisions progress by AMISOM in meeting the following objectives:

(a) Consolidation of security and stability throughout south central Somalia, including key towns, by the Somali security forces and AMISOM, on the basis of clear military objectives integrated into a political strategy;

(b) Effective regional coordination and cooperation on security issues by AMISOM;

(c) Assistance in the development of effective Somali security forces, with integrated units under a clear command and control structure and in coordination with the international community;

21. *Requests* the African Union to keep the Security Council regularly informed, through the Secretary-General, on the implementation of AMISOM's mandate, including on the implementation of paragraphs 1 and 2 in this resolution and on the new command and control structure and integration of forces under this structure and report to the Council, through the provision of written reports, no later than 30 days after the adoption of this resolution and every 60 days thereafter;

22. *Decides* that Somali authorities shall take the necessary measures to prevent the export of charcoal from Somalia and that all Member States shall take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia; further *decides* that all Member States shall report to the Security Council Committee established pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea ("the Committee") within 120 days of the adoption of this resolution on the steps they have taken towards effective implementation of this paragraph; and *requests* the Monitoring Group re-established pursuant to resolution 2002 (2011) to assess the impact of the charcoal ban in its Final Report;

23. *Decides* that the mandate of the Committee shall apply to the measures in paragraph 22 above; *decides* that the Monitoring Group's mandate shall likewise be expanded; and *considers* that such commerce may pose a threat to the peace, security, or stability of Somalia, and therefore that the Committee may designate individuals and entities engaged in such commerce as subject to the targeted measures established by resolution 1844 (2008);

24. *Decides* to remain actively seized of the matter.

Annex

In accordance with paragraph 6 of this resolution, on an exceptional basis and due to the unique character of AMISOM, the UN logistical support package for AMISOM shall be extended for a maximum of 17,731 uniformed personnel and 20 AMISOM civilian personnel based in AMISOM headquarters until 31 October 2012, in line with the recommendation in paragraphs 29 and 43 of the Secretary-General's Special Report on Somalia (S/2012/74), which includes the provision of explosive threat management capacity, level II medical facilities and the reimbursement of contingent owned equipment (COE).

Eligible COE will include standard enablers and multipliers within the land component, and an aviation component of up to a maximum of 9 utility helicopters and 3 attack helicopters.

COE reimbursement should conform to UN rates and practices, including the direct transfer of funds to troop contributing countries (TCCs) as appropriate, and periodic reviews to ensure full operational capability. Letters of Assist (LOAs) should be negotiated with TCCs for equipment not covered under the UN COE framework including the aviation specified above.

As noted in paragraph 29 of the Secretary-General's Special Report on Somalia (S/2012/74), only equipment deployed by the TCCs and considered owned by TCCs should be reimbursed. Equipment gifted or donated to TCCs, AMISOM, the African Union or where the ownership still remains with the donor are not eligible for reimbursement.

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General Assembly
Sixty-sixth session
Agenda items 35, 39, 65, 67, 69, 83 and 84

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Promotion and protection of the rights of children

Elimination of racism, racial discrimination, xenophobia and related intolerance

Promotion and protection of human rights

The rule of law at the national and international levels

The scope and application of the principle of universal jurisdiction

Security Council
Sixty-seventh year

Letter dated 17 February 2012 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

The most serious crimes of concern to the international community, such as war crimes, crimes against humanity and genocide, have been committed in the course of the ongoing aggression of the Republic of Armenia against the Republic of Azerbaijan. In the coming days, Azerbaijan commemorates the twentieth anniversary of the atrocious crimes committed against the civilians and defenders of the town of Khojaly, situated in the Daghlyq Garabagh (Nagorno Karabakh) region of the Republic of Azerbaijan.

On the night of 25 to 26 February 1992, the armed forces of Armenia, with the support of irregular armed bands and terrorist groups, as well as with the direct participation of the infantry guards regiment No. 366 of the former Union of Soviet Socialist Republics, the personnel of which was composed mainly of ethnic Armenians, implemented the seizure of Khojaly. The attack and capture of the town involved the extermination of hundreds of Azerbaijanis, including women, children and the elderly, and thousands of civilians were wounded and taken hostage, many of whom remain missing, while the town was razed to the ground.

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The level of brutality in Khojaly is shocking, and atrocities included scalping, beheading, bayoneting of pregnant women and the mutilation of bodies. The facts confirm that the intentional slaughter of the civilians in Khojaly town was directed at their mass extermination only because they were Azerbaijanis. By committing this appalling crime, its perpetrators also had a purpose, to strike terror into the hearts of people and create fear before the horrifying massacre. Indeed, Khojaly was chosen as a stage for further aggression against and occupation and ethnic cleansing of Azerbaijani territories.

Apart from the considerable information in the possession of the law enforcement agencies of Azerbaijan, the responsibility of Armenia, as well as its political and military leadership and subordinate local armed groups for the crimes committed in Khojaly has been recognized and documented by numerous independent sources and eyewitnesses to the tragedy, and has even been admitted by Armenia's high-ranking officials and the country's public sources. This responsibility emanates from both general international law and, more particularly, from the provisions of the European Convention on Human Rights, to which both Armenia and Azerbaijan are parties.

In its judgement of 22 April 2010, the European Court of Human Rights arrived at an important conclusion with respect to the crime committed in Khojaly, qualifying the behaviour of those carrying out the incursion as "acts of particular gravity which may amount to war crimes or crimes against humanity". The European Court made in this regard the following observation, which leaves no doubt as to the question of qualification of the crime and ensuing responsibility for it:

> "It appears that the reports available from independent sources indicate that at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, by Armenian fighters attacking the town ..." (Judgment of the European Court of Human Rights of 22 April 2010, para. 87).

The relevant Security Council resolutions adopted in 1993 in response to the illegal use of force against Azerbaijan and occupation of its territories, including resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), made specific reference to violations of international humanitarian law, including the displacement of a large number of civilians in Azerbaijan, attacks on civilians and bombardments of inhabited areas. It is beyond dispute that such acts amount to war crimes, crimes against humanity and racial discrimination.

The overall assessment of the causes and consequences of the war unleashed by Armenia against Azerbaijan makes it absolutely clear that the intentional slaughter of the civilians and defenders of Khojaly was not an isolated or sporadic act, but was part of Armenia's widespread and systematic policy and practice of atrocities, at the core of which are odious ideas of racial superiority, ethnic differentiation and hatred. It should be also noted that the Khojaly massacre and other crimes committed against Azerbaijanis during the conflict have finally exploded the myth depicting Armenia as an eternal victim.

The Government of Azerbaijan is confident that consistent measures being taken at the national level, as well as the existing legal framework of prosecution of

and punishment for the most serious crimes of concern to the international community, will serve to end impunity for the crimes in Khojaly and other grave offences committed in the course of the aggression of Armenia against Azerbaijan. It is important to ensure that the pursuit of offenders is undertaken through either the domestic legal systems of involved and third-party States or relevant international criminal institutions, as appropriate, and that State responsibility is enforced through existing inter-State mechanisms.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 35, 39, 65, 67, 69, 83 and 84, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative